

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert & Mary Kuhn,
Petitioners-Appellants,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0485
Parcel No. 312/03241-505-000

On December 29, 2011, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Robert and Mary Kuhn were self-represented and requested a written consideration. The Polk County Board of Review was represented by County Attorneys Ralph Marasco, Jr., David Hibbard, and Anastasia Hurn. Both parties relied on the certified record. The Appeal Board having reviewed the entire record and being fully advised, finds:

Findings of Fact

Robert and Mary Kuhn, owners of a residentially classified property located at 7944 Rocklyn Drive, Urbandale, Iowa, appeal from the Polk County Board of Review regarding their 2011 property assessment. The January 1, 2011, assessment is allocated as follows: \$51,200 in land value and \$264,400 in improvement value for a total assessment of \$315,600.

According to the property record card, the subject property is a one-and-a-half story frame, single-family residence built in 1991. The improvements include 2780 square feet of above-grade finish. The basement is 2144 square-feet and is unfinished. Additional improvements include a 678 square-foot attached garage, 328 square-feet of deck area, an 81 square-foot open porch, and a 100 square-foot patio. The site is 0.406 acres.

The Kuhns did not protest their assessment to the Polk County Board of Review. On its own action, the Board of Review reduced the Kuhns 2011 assessment from \$315,600 to \$284,000, stating “the assessed value of this property was changed because the market data did not support the assessment.” This reduction was made based on the property being assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b).

After receiving notice of the decreased assessment, the Kuhns appealed to this Board asserting an error in the assessment under section 441.37(1)(c). On their appeal form they noted several discrepancies between the property record card and actual improvements. The Kuhns assert the correct value of their property is \$352,000, allocated as \$51,200 in land value and \$301,000 in improvement value.

We will consider claims of over assessment and error.

Because the Board of Review acted on its own initiative to lower the Kuhns 2011 assessment, there is no petition form. Kuhns’ appeal form essentially asserts there are errors in the description of the subject property. The Kuhns requested several corrections be made to their property record card. In summation the differences are found in the following grid.

Property Record Card	Requested Corrections
3 Bedrooms	4 Bedrooms (2 upper/1 main/1 lower level)
1 Fireplace	2 Fireplaces (1 upper/1 lower level)
2 Full Baths, 1 Half Bath	2 Full Baths, 1 Half Bath, and 1 3/4 Bath in lower level
2780 Above Grade Living Area (GLA)	2984 Total (GLA) Allocated as 2148 main level/836 upper level
No Basement Finish	1088 Finish Basement (tiled/carpeted)
No Walkout Lower Level	Walkout Lower Level

The property record card correctly indicated three bedrooms. The Kuhns assert there are four bedrooms, but one is located in the lower level. Likewise, the Kuhns assert the correct bath count should include a three-quarter bath in the lower level. They also indicate a second fireplace in the

lower level. The property record card does not list basement finish or a walk-out feature, whereas the Kuhns assert there is a walk-out and the basement has 1088 square feet of finish, which would include the extra bedroom, bath, and fireplace they believe was omitted.

The Kuhns also assert a total above grade living area of 2984 square feet compared to the property record card, which lists a total above grade living area of 2780 square feet. This is just over a 200 square foot difference.

Lastly, the Kuhns asserted they have a “new deck, brick patio, fenced backyard, and lawn irrigation.” The Kuhns offered three photographs of their property which verifies the fence and walk-out feature. The deck and patio appear to already be noted on the property record card.

Because there appear to be discrepancies between Kuhn’s assertions and the property record card, we ordered the Board of Review conduct an interior inspection of the subject property to verify and confirm the living area and amenities, specifically those the Kuhns noted to be in error. On February 17, 2012, the Board of Reviewed filed a Motion to Dismiss this case. It asserts that on February 9, 2012, Paul Humble with the Polk County Assessor’s Office contacted the Kuhns to schedule an inspection in accordance with our order. However, Mrs. Kuhn refused an inspection.

While we agree there is at least one error (walk-out feature) as evidenced by Kuhns’ picture of the property, because the Board of Review is not allowed to inspect it, we do not have enough information to determine the effect on value of that single error or if Kuhn’s other asserted errors are valid.

The Kuhns did not offer any evidence of market value.

The Board of Review did not offer any evidence.

Based on the foregoing, we find insufficient evidence has been presented to indicate the subject property is assessed for more than authorized by law. While we recognize at least one error in the property record card relating to the physical description of the subject property, the Kuhns did not

indicate how this sole error impacts value. Additionally, the Kuhns chose not to allow an inspection to confirm their assertions. An inspection would have allowed the Board of Review, through the Assessor's Office, to correct any errors it found and provide us with the value attributed to those errors. As such, we urge the Kuhns to reconsider allowing a representative from the Assessor's Office to inspect their property in the future to allow for verification and correction of errors they believe exist.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

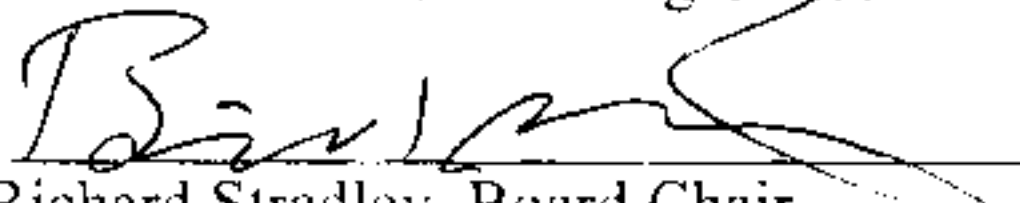
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Kuhns did not offer any market evidence of what they believe to be the correct value of the subject property.

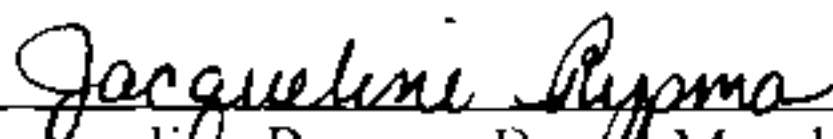
The Kuhns also assert there are errors in the subject property under Iowa Code section 441.37(1)(d). Through their written appeal and photographs of the subject property, the Kuhns have demonstrated they have a walk-out lower level, which is not noted on the property record card. The Kuhns also assert other errors exist on the listing of the property. However, they chose not to allow the Board of Review to inspect the property to verify the errors, correct them, and provide this Board with the value attributed to the discrepancies. As such, this Board has no evidence regarding the impact of the error or asserted errors.

THE APPEAL BOARD ORDERS the assessment of Robert and Mary Kuhn's property located at 7944 Rocklyn Drive, Urbandale, Iowa, of \$284,000, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

Dated this 2 day of March, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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APPELLANT

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ATTORNEYS FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-2</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	